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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,616	02/19/2004	Gerardus J. Brouwer	8494-21	3166

7590 12/05/2006

BERESKIN & PARR
40 KING STREET WEST
BOX 401
TORONTO, ON M5H3Y2
CANADA

EXAMINER

NOVOSAD, CHRISTOPHER J

ART UNIT PAPER NUMBER

3641

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/780,616	BROUWER ET AL.	
	Examiner	Art Unit	
	Christopher J. Novosad	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 3,4 and 7-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 5, 6, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Hummer.

Regarding claim 1, Hummer discloses a method of handling sod 12 having grass blades projecting upwardly therefrom, comprising providing a clamp (rod 42 from actuator 40a attached to member 50e and rod 42 from actuator 40b attached to member 50d) having first and second opposing clamp side members (surfaces of 42) at least one (surface of 42) of which is moveable to press against the other clamp side member (surface of 42), gripping at least an upper portion of the sod 12 between the opposing clamp side members (surfaces of 42) and moving the clamp (rod 42 from actuator 40a attached to member 50e and rod 42 from actuator 40b attached to member 50d) with the sod 12 suspended from the clamp (rod 42 from actuator 40a attached to member 50e and rod 42 from actuator 40b attached to member 50d).

As to claim 2, the clamp (rod 42 from actuator 40a attached to member 50e and rod 42 from actuator 40b attached to member 50d) clamps at least some of the grass blades by contacting the grass blades and pressing such grass blades between the clamp side members (surfaces of 42).

With respect to claim 5, at least two (note Fig. 3) clamps (rod 42 from actuator 40a attached to member 50e and rod 42 from actuator 40b attached to member 50d) being a first

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clamp; rod 42 from actuator 40a attached to member 50c and rod 42 from actuator 40b attached to member 50b being the second clamp) are used.

With regard to claims 6 and 25, Hummer (Figs. 1 and 2, col. 4, lines 32-40) discloses the steps of lowering the clamps (lowering the opposing actuator rods 42, as noted above, by means of frame 20) onto said sod with the clamps open (actuator rods 42 in retracted position), closing said clamps (actuating the rods 42 into their extended positions) to grip said sod, lifting said clamps to raise said sod (12), and then moving said clamps to move said sod (12).

Regarding claim 26, Hummer shows a method of handling sod 12 having grass blades projecting upwardly therefrom, comprising gripping the grass blades by clamps (rod 42 from actuator 40a attached to member 50e and rod 42 from actuator 40b attached to member 50d being a first clamp; rod 42 from actuator 40a attached to member 50c and rod 42 from actuator 40b attached to member 50b being the second clamp) and suspending the sod 12 by the grass blades, and then moving the sod 12 (note Figs. 1 and 2) with the sod 12 suspended by the grass blades.

Response to Arguments

Applicants' arguments have been fully considered but they are not persuasive. The arguments are considered to be more limiting than what is actually claimed. The clamps (rod 42 from actuator 40a attached to member 50e and rod 42 from actuator 40b attached to member 50d being a first clamp; rod 42 from actuator 40a attached to member 50c and rod 42 from actuator 40b attached to member 50b being the second clamp) are considered to be met by the structure (rod 42 from actuator 40a attached to member 50e and rod 42 from actuator 40b attached to

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member 50d being a first clamp; rod 42 from actuator 40a attached to member 50c and rod 42 from actuator 40b attached to member 50b being the second clamp) noted. It is considered that sod necessarily would include individual grass blades that would be clamped.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 571-272-6993. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached at 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher J. Novosad
Primary Examiner
Art Unit 3641

December 4, 2006